

**RAIL SERVICE COMPETITION COUNCIL
COUNCIL MEETING
MINUTES**

**Monday
February 26, 2007
11:00am – 3:00pm**

**MT Dept. of Transportation
Commission Room
Helena, Montana**

COUNCIL MEMBERS PRESENT: Mike O'Hara, Carla Allen, Larry Bonderud, Doug Miller, Bill Fogarty, Dan Bucks, Jim Lynch, Evan Barrett,

COUNCIL MEMBERS ABSENT: Russ Hobbs, Sen. Ken Hansen, Rep. Tom McGillvray

REPRESENTING COUNCIL MEMBERS: Larry Finch, Dick Turner, Joel Clairmont

GUESTS: Mike Opar, Mark Cole, George Paul, Barbara Ranf, Zia Kazimi

RSCC STAFF: Terry Whiteside, Gloria O'Rourke

- 1.0 Chairman Mike O'Hara called the meeting to order.** Roll call was taken and the audience was introduced.
- 2.0 Chairman O'Hara requested approval of the RSCC December 6, 2006 minutes.** Doug Miller moved to approve, Larry Bonderud seconded. All voted in favor to approve the minutes.
- 3.0 HB26, Budget and FTE Update**
 - 3.1 HB 26 is being carried by Rep. Tom McGillvray. The bill contains the RSCC request to include staggered term language but was reduced from \$400,000 to \$100,000 for the biennium. This reduction will allow for no consulting funds and no FTE. The bill also removes the Director of Revenue and a representative from the Governor's Office of Economic Development from the council. Once the bill reaches the Senate Finance and Claims Committee, funding can hopefully be adjusted, sent to the Senate floor and eventually back to the House for compromise. Evan Barrett noted there is a \$3 million request in HB2 for the Department of Justice for litigation for rail competition issues that could be used for preparation and litigation involving the STB. Evan also explained that HB2 is being divided into six new bills by the House. The six new bills contain funding cuts not included in HB2. For example, the budget or Marketing and Recruitment was cut from \$300,000 in HB2 to \$15,000 in the new bill.

As the RSCC can justify the request for \$200,000 per year, Bill Fogarty moved to reiterate the council's support for \$400,000 for the biennium. The motion was seconded by Larry Bonderud. All voted in favor of the motion. It was noted the RSCC must report to the 2009 Legislature on the council's activities and progress.
- 4.0 Taxation Subcommittee Update (Rep. Tom McGillvray, Chair)** This subcommittee has not met recently.
- 5.0 Transportation Subcommittee Update (Mike O'Hara, Chair)** This subcommittee has not met recently.
- 6.0 Technical Assistance Update –(Terry Whiteside)** Terry Whiteside presented an update of current activity on the rail customer front (view it at <http://rscclmt.gov>) which included:
 - o Rail captive legislation to be finalized
 - o Rail Shipper Day scheduled for March 15th – RSCC may want to have a representative there.

- Continuing to push a tax infrastructure bill in the new Congress
- Completion of Montana 2006 Farm Producer Survey and results – 13 findings
 1. Grain is being hauled further and further over the state and county highway systems.
 2. The majority of farm producers have experienced increasing hauling distances over the past 10 and 20 years.
 3. Those farm producers experiencing increased haulage are hauling over 3 times as far as those farm producers who have not experienced any increased hauling distances.
 4. The non-wheat crops are experiencing significantly greater hauling distances than wheat crops further burdening alternative and rotational crop practices.
 5. Some counties show average hauling distances upwards of 80+ miles.
 6. The 2006 harvest in Montana could be best described as a tale of two cities – with Winter wheat showing average to above average yields and Spring wheat, durum, barley, pulse, peas and lentils showing average to below average yields.
 7. The vast majority of farm producers have the capabilities of storing most if not all of their grain production.
 8. Even with the diversity of yields, most Montana farm producers experienced elevator pluggings multiple times during harvest – due to lack of rail cars.
 9. With the multiple elevator pluggings, most farm producers held onto to their crops and waited for the rail car shortages to abate rather than take their grain to more distant elevators.
 10. Farm producers generally thought these delays and elevator pluggings were 'about average' and par for the course.
 11. Farm producers are finding unloading delays at ever more distant elevators each year.
 12. As the elevator system is being forced to larger, more rail efficient shuttles coupled with the loss of thousands of miles of rail branchlines in the state, the costs of transportation for gathering grain seem to be shifting from the railroads to the farm producers and to the State and local highway system.
 13. Service levels seeing little improvement with the transition to larger grain handling facilities
- Terry Whiteside provided bound copies of the report which was compiled for the RSCC by Montana Department of Transportation and Whiteside Associates. The report provides valuable information and hard data that quantifies the already known problems and issues. There is an Executive Summary in the report as well as a discussion regarding ramifications of what the data indicates.
- Terry asked everyone to provide feedback and comments on the draft report as soon as possible so that final finished copies can be produced.

Discussion and comments:

- Regarding elevator operations, it would be worthwhile to know how many elevator companies exist and the distribution of ownership. This may be another factor in the competition issue.
- Do longer hauls result because of the search for a better price or because of fewer elevators?

- As a result of changed weather patterns and the shortened harvest window, more and more grain is being stored on the farm. Producers are also storing fertilizer as well, as it is cheaper during the fall.
- As the survey showed drastic increase in the distance to haul products, the cost of increased traffic and maintenance to the highway can now be calculated. There is now a definite connection between a profitable railroad and a shift to state government road maintenance.
- There is a tremendous risk to the producer that did not exist 20 years ago – in liability, truck driving, equipment, traffic safety, etc.

7.0 RSCC Serving as Facilitator to Foster Cooperative Relationships between Railroads

7.1 RARUS Rail Issue – The RSCC received a letter from representatives of Butte Local Development, Butte Chamber of Commerce and Paul Babb, Chief Executive of Butte Silver Bow requesting assistance in forming an agreement between BNSF and Rarus. As discussed at the last RSCC meeting, BNSF is not allowing access to track for a tourist passenger train, the Copper King Express, to turn around as BNSF feels Rarus is not carrying enough liability insurance.

Barbara Ranf, a representative from BNSF, explained that BNSF has lowered its trackage fees and the liability fee but is insisting that the Copper King Express provide adequate liability insurance for its passengers. Rarus feels that as the track request is only 2000 feet and the train travels 5mph or less, their liability insurance is adequate.

As this is not a rail freight issue but a rail service issue, the motion was made by Larry Bonderud to refer the letter to Governor Schweitzer to bring the matter to his attention. Dan Bucks provided the second. All members voted in favor. Gloria O'Rourke will write a cover letter to the Governor explaining that the RSCC recognizes the beneficial impact of the Rarus operation but as this is not a strictly rail competition issue, it is being referred to the Governor.

8.0 Dr. Daniel Fiehrer regarding Great Falls to Helena Line. Dr. Fiehrer was not available to make a presentation to the RSCC regarding his vision of the Great Falls to Helena line. Evan moved to place Dr. Fiehrer's letter on file unless Dr. Fiehrer requests future assistance from the RSCC. Jim Lynch provided the second; all voted in favor of the motion.

9.0 Rail Updates

9.1 Union Pacific – Evan Barrett reported there are no bills at this time in the legislature related to venue issues. With the passage of a bill in the 2005 legislative session there have not been any anticipated abuses. Regarding the port update, focus is on finding more opportunities for customers.

9.2 Canadian Pacific – Larry Bonderud reported Canadian Pacific has hit a plateau and experienced a bit of a downturn in its stock value, but is alive and well.

9.3 Montana Rail Link – nothing new to report.

9.4 BNSF Railway – Barbara Ranf reported BNSF is planning some summer track upgrades. Barbara also handed out copies of the "BNSF Reply to Supplemental Comments of Montana Wheat and Barley Committee, et al".

9.5 Central Montana Railroad – Carla Allen reported the Central Montana Railroad is doing well and planning some track upgrades as well as bridge renewals.

9.6 Watco, Yellowstone, Mission Valley, others – no report available.

10.0 Next Council Meeting

10.1 Meeting Date and Location. The next RSCC meeting will be Thursday, May 17th in Helena, at the Montana Department of Transportation Commission Room from 11:00am to 3:00pm.

10.2 Agenda Items. Agenda items for the May 17th RSCC meeting will include a review of the final 2006 Farm Producer Survey, results of legislative action on HB26, and other issues that may come before the RSCC..

11.0 Comments or Issues from Council Members

- Evan Barrett reported progress is being made regarding a rail spur for the mine near Roundup. Montana Department of Environmental Quality granted an underground expansion permit which proves the need for the rail spur. The spur would lead to expansion of sales as well. The spur is east of Broadview to twelve miles south of Roundup in the Bull Mountains.
- BNSF has announced that they will not proceed with the abandonment of the line out of Circle (to the east) to potentially serve the needs of a future powerplant or industry.
- March 15th is the Third Annual Rail Shipper's Day. As Montana is "the" place for captive shippers, Evan Barrett moved for a representative of the RSCC to attend this event. Carla Allen seconded the motion. All voted in favor to send a representative to Rail Shipper's Day. The purpose of the event is to demonstrate a strong level of support and commitment for rail customer legislation through arranging multi-industry meetings with key Members of Congress and their staff. Since the BNSF representative brought up the BNSF reply to Montana comments in an STB proceeding in Washington DC, Terry Whiteside will send a packet of information to Gloria for forwarding onto the RSCC on the Comments and Supplemental Comments filed by the Montana Wheat & Barley Committee and Montana Grain Growers, Montana Governor Brian Schweitzer, et al in Surface Transportation Board's Ex Parte No. 661, Rail Grain Transportation which called for an investigation of Montana rail transportation by the STB. This will give the RSCC the background to the BNSF Reply statement handed out by BNSF at this meeting..
- Larry Bonderud reported Montana Department of Transportation is conducting an intermodal study and wants to involve the RSCC. Larry will send a copy of the RFP to Gloria and she will forward a copy to the group.

12.0 Formal Public Comment Period – none received.

13.0 Adjournment. With no further business pending, Mike O'Hara thanked Montana Department of Transportation representatives for their hospitality and adjourned the meeting.